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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/590,505

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Richard Christ

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EXAMINER

ADAMS, GREGORY W

ART UNIT

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,505	<b>Applicant(s)</b> CHRIST, RICHARD	
	<b>Examiner</b> GREGORY W. ADAMS	<b>Art Unit</b> 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 16-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                        |                                                                   |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>8/24/06</u> .                                                 | 6) <input type="checkbox"/> Other: ____.                          |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, "the blister is detected at said supply position" (claim 17, line 1) and "means for repeated grasping and disposition" (claim 16, line 9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to under 37 CFR 1.83(a) because they fail to show the different motion control of the relocating device ...ensured with great precision due

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to use of "independent servomotors" (page 8, lines 18 & 24; page 10, line 13) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 17-23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. With respect to claim 17, the limitation “the blister is detected” lacks adequate description such that one skilled in the art would understand how this is accomplished without undue experimentation. For example with the art of article handling proximity sensors, limit switches and photo-eye sensors are well known detectors for sensing when an object is present. Page 1, line 2 merely repeats the limitation without providing structure how a blister is detected. With respect to claim 21, the limitation “separation between said first and said second pivots axes can be changed” lacks adequate description such that one skilled in the art would understand how this is accomplished without undue experimentation.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 16-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 16, line 9: Claim element “means for repeated grasping and disposition” is a means (or step) plus function limitation that invokes 35 U.S.C. 112, sixth paragraph. However, the written description fails to clearly link or associate the disclosed structure, material, or acts to the claimed function such that one of ordinary skill in the art would

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recognize what structure, material, or acts perform the claimed function. There is no clear linking language within Applicants full written description from which one can associate means for repeated grasping and disposition. Is it a motor(s), servo motor(s), arm(s), pivot axis (or axes), vacuum, suction cup and/or known equivalents?

Applicant is required to:

(a) Amend the claim so that the claim limitation will no longer be a means (or step) plus function limitation under 35 U.S.C. 112, sixth paragraph; or

(b) Amend the written description of the specification such that it clearly links or associates the corresponding structure, material, or acts to the claimed function without introducing any new matter (35 U.S.C. 132(a)), e.g. amend to include language such as –the means for repeated grasping and disposition is a motor--; or

(c) State on the record where the corresponding structure, material, or acts are set forth in the written description of the specification that perform the claimed function, e.g. include language such as –the means for repeated grasping and disposition is a motor--. For more information, see 37 CFR 1.75(d) and MPEP §§ 608.01(o) and 2181.

With respect to claim 16, a single claim which claims both an apparatus and the method steps of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. In *Ex parte Lyell*, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990). The second paragraph of 35 USC 112 requires a claim to particularly point out and distinctly claim the subject matter which the appellant regards as his invention. However, the “invention” referred to in the second paragraph of 35 USC 112 is also subject to the requirements of 35 USC 101. This section of the statute requires that in order to be

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patentable the invention must be a “new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof”. A claim intended to embrace or overlap two different statutory classes of invention set forth in 35 USC 101 is precluded by the express language of 35 USC 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. A single claim which purposes to be both a product or machine and a process is ambiguous and is properly rejected under 35 USC 112, second paragraph, for failing to particularly point out and distinctly claim the invention. *Ex parte Lyell*, USPQ. 2d (Board of Patent Appeals and Interferences) 1548, 1551. Although claim 16 is clearly an apparatus claim lines 3 & 6 recite “using a...device” which is clearly a method step. Thus Examiner seeks clarification on the statutory type of claim Applicant has created. See MPEP 2173.05(p).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 16-17 & 19-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Battisti (US 2003/0188513) in view of Eberle (US 3,982,624), Dahlstrom (US 4,287,459) and Suzuki (US 4,383,359).

The examiners interpretation is that claim 16, lines 3-7 are NOT invoking 35 USC 112, sixth paragraph because claim 16 recites “using a receiving device” and “using a relocating device”. It is noted that if Applicant intends lines 3-7 to be an invocation of 35

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USC 112, sixth paragraph that as noted above there must be clear linking language within the specification and removal of “using...”. Lines 8-13 ARE interpreted as invoking 35 USC 112, sixth paragraph. Notwithstanding the drawing objection above lines 8-13 appear to be linked to independent servomotors. See Applicants specification page 10, line 11-14.

Battisti discloses a device comprising:

- using a receiving device 79, 80 (para. [0057]) at a supply position A of a blister 5A;
- using a relocating device 7, a deposition location 8, 9 disposed on a continuous conveying device 9 which is driven in cycles; and
- means (FIG. 4; paras. 0058-0063]) for repeated grasping and disposition of blisters during a single cycle of a conveying device to place blisters at a deposition location 8, 9, wherein each blister has an individual associated motion of a relocating device.

Battisti discloses placing blisters on a conveyor line for transport to a packaging machine and does not disclose stacking blisters with individual associated motion of a relocating device. Eberle discloses a receiving device 83, relocating device 81 and means for repeated grasping and disposition of blisters during a single cycle of a conveying device to form a stack of plates at a deposition location (FIG. 3) of a continuous conveying device 218, wherein each plate has an individual associated motion of a relocating device. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of



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Battisti to include Eberle's means for grasping and disposition of blisters to accommodate size changes quickly. C1.

Dahlstrom discloses relocating workpieces from a conveyor 14 to a stack and further discloses receiving device 8, relocating device 3, 4, 5, 6 and further discloses means, i.e. "three servo-mechanisms" (C2/L45), for repeated grasping and disposition of workpieces during a single cycle of a conveying device to form a stack of workpieces at a deposition location 11, wherein each workpiece has an individual associated motion of a relocating device. Dahlstrom teaches that it is well known to program a robot to collect, deliver and stack multiple workpieces from point to point in a pattern, and notes that this type of programming is extremely time-consuming where there are many workpieces. C1/L26-35. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Battisti to include Dahlstrom's means for repeated grasping and disposition of blisters during a single cycle of a conveying device to form a stack of blisters at a deposition location as is well known in the art.

Dahlstrom discloses servo-mechanisms and does not explicitly disclose servomotors. Suzuki discloses means for grasping and disposition of parts comprising servo motors (C8/L20-29) to achieve the predictable result of moving a myriad of individual parts of different sizes and shapes (C2/L1-5) which agrees with Dahlstrom (C1/L53-55). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Battisti to combine

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Dhalstrom's servo mechanisms with Suzuki's servomotors to achieve the predictable result of accommodating workpieces of different sizes and shapes.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Battisti in view of Eberle, Dahlstrom and Suzuki and further in view of Negoro (US 2,826,881). Negoro discloses stacking articles moving from a production line to a packaging line by stacking said articles on a continuously moving conveyor 92 having fingers/walls 102. Negoro teaches that this stacking prior to packaging allows for an intermediate operation such as conditioning a stack for compactness. C6/L47-59. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the apparatus of Battisti to include creating a stack prior to packaging, as per the teachings of Negoro, to allow for intermediate operations on a stack prior to packaging.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREGORY W. ADAMS whose telephone number is (571)272-8101. The examiner can normally be reached on M-Th, 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gregory W Adams/  
Primary Examiner, Art Unit 3652